



PATENT
Attorney Docket No. 915-013.005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re. Application of

Petri AHONEN : Group Art Unit: **2184**

Serial No. 10/517,001 : Confirmation No.: **8749**

Filed May 31, 2005 : Examiner: **Hyun NAM**

For: **Method and Apparatus for Programming Updates From a Network Unit to Mobile Device**

Mail Stop Appeal Brief — Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

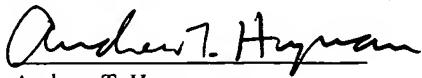
BRIEF FOR APPELLANT

Sir:

This is an appeal brief in furtherance of a Notice of Appeal filed August 11, 2008 regarding a Final Office Action dated March 25, 2008. If any further fees are required, please deduct any such amount from deposit account 23-0442.

CERTIFICATE OF FIRST CLASS MAILING UNDER (37 CFR §1.8)

I hereby certify that this correspondence is being deposited on this date, **January 12, 2009**, with the United States Postal Service as first-class mail in an envelope addressed to Commissioner for Patents, Alexandria, VA 22313.


Andrew T. Hyman

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I. The Real Party In Interest

The real party in interest is NOKIA CORPORATION, which is the assignee of record.

II. Related Appeals and Interferences

There are no related appeals and interferences which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. Status of Claims

Claims 1-18 are pending and stand rejected. Claims 1-18 are being appealed, including all of the independent claims: 1, 9, 14, 16, and 17.

IV. Status of Amendments

An amendment was filed on May 27, 2008 in order to overcome rejections under 35 USC § 112. The amendment has been acted upon by the examiner, and the Advisory Action indicates that the rejections under 35 USC § 112 have been overcome.

V. Summary of Claimed Subject Matter

The present invention involves the download of firmware data through a mobile phone to an external memory; this downloaded data is used to update firmware of the mobile phone that is performing the downloading.

Regarding present method claim 1, its features are described at least at page 3 of the application as originally filed, at lines 1 thru 3. The features of claim 1 can also be seen in the figures. **FIG. 4** discloses receiving (402) update data from a network unit at a mobile device of a network, wherein a logic, external memory unit is connected with the mobile device. The update data is transferred from the mobile device to the external memory unit and stored (406) in the external memory unit of the mobile device. As shown in **FIG. 3**, the stored update data is programmed (306) in a permanent memory unit of the mobile device, according to programming logics provided by the mobile device. As shown in **FIG. 2**, firmware of a mobile device is updated (204) according to the update data.

Regarding present arrangement claim 9, its features are described at least at page 3 of the application as originally filed, at lines 1 thru 3. Also see page 4, line 19 thru page 5, line 15. The features of claim 1 can also be seen in the figures. **FIG. 1** shows the external memory unit 106, the connection interface 105, and the control unit 104. **FIG. 4** discloses receiving (402) update data from a network unit at a mobile device of a network, wherein the logic, external memory unit is connected with the mobile device. The update data is transferred from the mobile device to the external memory unit and stored (406) in the external memory unit of the mobile device. As shown in **FIG. 3**, the stored update data is programmed (306) in a permanent memory unit of the mobile device, according to programming logics provided by the mobile device. As shown in **FIG. 2**, firmware of a mobile device is updated (204) according to the update data.

Regarding present mobile device claim 14, its features are described at least at page 3 of the application as originally filed, at lines 1 thru 3. Also see page 4, line 19 thru page 5, line 15.

The features of claim 14 can also be seen in the figures. **FIG. 1** shows the external memory unit 106, the connection interface 105, and the control unit 104. **FIG. 4** discloses receiving (402) update data from a network unit at a mobile device of a network, wherein the logic, external memory unit is connected with the mobile device. The update data is transferred from the mobile device to the external memory unit and stored (406) in the external memory unit of the mobile device. As shown in **FIG. 3**, the stored update data is programmed (306) in a permanent memory unit of the mobile device, according to programming logics provided by the mobile device. As shown in **FIG. 2**, firmware of a mobile device is updated (204) according to the update data.

Regarding present external memory unit claim 16, its features are described at least at page 3 of the application as originally filed, at lines 1 thru 3. Also see page 4, line 29 thru page 5, line 34. The features of claim 16 can also be seen in the figures. **FIG. 1** shows the external memory unit 106, the connection interface 105, and the control unit 104. **FIG. 4** discloses receiving (402) update data from a network unit at a mobile device of a network, wherein the logic, external memory unit is connected with the mobile device. The update data is transferred from the mobile device to the external memory unit and stored (406) in the external memory unit of the mobile device. As shown in **FIG. 3**, the stored update data is programmed (306) in a permanent memory unit of the mobile device, according to programming logics provided by the mobile device. As shown in **FIG. 2**, firmware of a mobile device is updated (204) according to the update data.

Regarding present arrangement claim 17, its features are described at least at page 3 of the application as originally filed, at lines 1 thru 3. Also see page 4, line 19 thru page 5, line 15.

The features of claim 1 can also be seen in the figures. **FIG. 1** shows the external memory unit 106, the connection interface 105, and the control unit 104. **FIG. 4** discloses receiving (402) update data from a network unit at a mobile device of a network, wherein the logic, external memory unit is connected with the mobile device. The update data is transferred from the mobile device to the external memory unit and stored (406) in the external memory unit of the mobile device. As shown in **FIG. 3**, the stored update data is programmed (306) in a permanent memory unit of the mobile device, according to programming logics provided by the mobile device. As shown in **FIG. 2**, firmware of a mobile device is updated (204) according to the update data.

VI. Grounds of Rejection to be Reviewed on Appeal

The following issues will be addressed in the Argument:

Whether any of claims 1-18 are anticipated under 35 U.S.C. § 102(e) by *Toyoshima*.
(U.S. Patent Application No. 2002/0087759).

VII. Argument

All of the independent claims were rejected as anticipated by *Toyoshima*. (U.S. Patent Application No. 2002/0087759). Applicant respectfully disagrees with the rejections, and therefore submits that all of the dependent claims are allowable as well.

The *Toyoshima* reference presents a wireless module for wirelessly updating code to a peripheral device (*Toyoshima* paragraph 5). In the process of *Toyoshima*, firmware or code of a peripheral device is updated, not firmware of the wireless module. The Office Action states at

page 4 (last full paragraph) that “the primary code is a final firmware that is loaded and executed as a firmware in this wireless module”. However, the primary code of *Toyoshima*, which is loaded in the wireless module, is the primary code of the peripheral device (see Abstract and paragraph 6 of *Toyoshima*).

Toyoshima repeatedly states that the wireless module is used to update code to the peripheral device (e.g. see paragraph 17 of *Toyoshima* at first sentence, summary of the invention of *Toyoshima* at paragraph 5, and Abstract of *Toyoshima*) rather than vice versa as presently claimed. Therefore, the idea in *Toyoshima* is to have an external module for updating of a peripheral device, where the external module can store and execute a code update and also can act as a backup for an earlier version of the code of the peripheral device.

Applicant respectfully emphasizes that the steps in paragraph 17 of *Toyoshima* are illustrated in Figure 2 of *Toyoshima*. Figure 2 of *Toyoshima* is very clearly and succinctly described at Paragraph 11 of *Toyoshima*: “for updating code to a peripheral device utilizing the wireless module.” This is the exact opposite of the present claimed invention, which is for “updating a firmware of a mobile device” using an external memory unit.

Conclusion

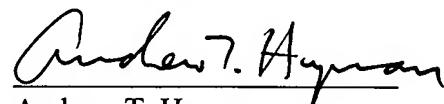
For the aforementioned reasons, it is respectfully submitted that the pending claims are patentable over the cited references. Under the law announced by the Court of Appeals for the Federal Circuit, the Final Action has not set forth a case for obviousness of the claimed subject matter in view of the teachings of the reference. The rejection of the pending claims should be

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reversed, and it is respectfully requested that the rejections be reconsidered and withdrawn.

Early allowance of all the pending claims is earnestly solicited.

Respectfully submitted,



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VIII. Claims Appendix

The claims, as amended, are as follows.

1. A method, comprising:

receiving update data from a network unit at a mobile device of a network, wherein a logic, external memory unit is connected with the mobile device,
transferring the update data from the mobile device to the external memory unit,
storing the update data in the external memory unit of the mobile device,
programming the stored update data in a permanent memory unit of the mobile device,
according to programming logics provided by the mobile device, and
updating a firmware of a mobile device according to the update data.

2. A method according to claim 1, wherein the method comprises transmitting the update data from the network unit to the mobile device as a response to a certain function that triggers the transmission, said function being one of the following: choosing from a menu of the network unit by a user, choosing from a menu of the mobile device by a user, an appearing of new update data to the network unit, or an outdated of the firmware of the mobile device.

3. A method according to claim 1, wherein the logic, external memory unit is connected to the

mobile device by means of an external memory bus.

4. A method according to claim 1, wherein the method comprises a-transmitting the update data by the mobile device, where the update data is converted to be compatible with the memory unit and with the memory bus to be connected thereto, after which the converted update data is transmitted to the external memory unit along the memory bus.
5. A method according to claim 1, wherein the method comprises transmitting the update data by a mobile device, through which the update data is directly transmitted further to the external memory bus of the mobile device along a memory bus.
6. A method according to claim 1, wherein the method comprises programming the update data stored in the external memory unit in the mobile device, when the mobile device is switched on for the next time.
7. A method according to claim 1, wherein the method comprises copying the programming logics for programming the update data from an external memory unit to the permanent memory unit of the mobile device prior to programming the update data.
8. A method according to claim 1, wherein the method comprises storing the programming logics for updating the update data from the permanent memory unit of the mobile device

to a random access memory of the mobile device prior to programming the update data.

9. An arrangement comprising:

an external memory unit arranged to store an update data,
a connection interface arranged to transmit the update data from a network unit to a mobile device and further to the external memory unit of the mobile device, and
a control unit arranged to program the stored update data to a permanent memory unit of the mobile device by means of a programming driver provided by the mobile device, and
wherein the control unit is further arranged to update a firmware of the mobile device.

10. An arrangement according to claim 9, wherein the mobile device includes an external bus for connecting a logic, external memory unit to the mobile device.

11. An arrangement according to claim 9, wherein the mobile device includes means for converting the update data into a form required by the external memory unit.

12. An arrangement according to claim 9, wherein the mobile device includes a copier configured to copy the programming driver to its permanent memory unit from the external memory unit prior to programming the update data.

13. An arrangement according to claim 9, wherein said arrangement is programmable.

14. A mobile device comprising:

a connection interface arranged to connect the mobile device with a network and for transmitting an update data from the network to the mobile device and further to an external memory unit,

wherein the connection interface is further arranged to connect the mobile device with the external memory unit, and further arranged to transmit the update data from the mobile device to the external memory unit in order to store the update data to the external memory unit,

a control unit configured to program the stored update data to a permanent memory unit of the mobile device according to programming logics provided by the mobile device, and

wherein the control unit is further arranged to update a firmware of the mobile device according to the update data and programming logics.

15. A mobile device according to claim 14, wherein the mobile device comprises a mobile phone.

16. An external memory unit, comprising:

a memory bus interface arranged to connect to a mobile device and to receive an update data from a network unit through the mobile device,

wherein the external memory unit is arranged to store the update data, and
wherein the external memory unit is further arranged to provide the mobile device
with the stored updating data in order to program the stored update data to a permanent
memory unit of the mobile device according to programming logics of the mobile device, and
wherein the update data is arranged to update a firmware of the mobile device.

17. An arrangement comprising:

means for storing an update data,

means for transmitting the update data from a network unit to a mobile device and further
to the means for storing, and

means for programming the stored update data to a permanent memory unit of the mobile
device by means of a programming driver provided by the mobile device, and wherein the means
for programming is also for updating a firmware of the mobile device.

18. An arrangement according to claim 17, wherein the mobile device includes an external
bus for connecting a logic, external memory unit to the mobile device.

IX. Evidence Appendix

None.

X. Related Proceedings Appendix

None.